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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,495	11/06/2003	Jean-Baptiste Galey	232979US0	7627
22850	7590	11/22/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HENRY, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1623	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/701,495

Applicant(s)

GALEY, JEAN-BAPTISTE

Examiner

Michael C. Henry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 4 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/02/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/02/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following office action is a responsive to the Amendment filed, 09/02/05.

The amendment filed 09/02/05 affects the application, 10/701,495 as follows:

1. Claim 1 has been amended. Claim 7 has been canceled. This leaves claims 1-6 and 8-22.

The responsive to applicants' arguments is contained herein below.

Claims 1-6 and 8-22 are pending in application

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 8, 21, 22 are rejected under 35 U.S.C. 102(a) as being anticipated by Dobson et al. (US 6,423,327 B1).

In claim 1, applicant claims "A method for softening lines and/or relaxing the skin and/or relaxing facial features, comprising topically applying a composition to one or more zones of the face or forehead marked with expression lines and/or to persons having expression lines, the composition comprising at least one compound selected from the group consisting of adenosine and adenosine analogues, in a physiologically acceptable medium." Dobson et al. disclose a method for enhancing the condition of skin in a mammal by reducing wrinkles, roughness, dryness, or laxity of the skin, comprising topically applying to the skin a composition comprising adenosine (see claim 1 and claims 2-10). It should be noted that the application of the

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composition to persons having expression lines (and/or to persons having expression lines) does not require that the application be applied to area of expression lines on said person, especially since “the claim also reads on a method for relaxing the skin or relaxing facial features and does not require a softening of lines. Furthermore, the term “expression lines” includes wrinkles.

Claim 8, which is drawn to a method of claim 1, wherein said composition comprises adenosine, is also anticipated by Dobson et al., since Dobson et al.’s composition also comprises adenosine (see claim 1 and claims 2-10). Claims 21 and 22, which are drawn to a method of claims 1 and 8 respectively, comprising the topical application to the skin an effective amount of said composition to decrease wrinkles and/or reduce laugh lines and/or reduce frown lines, are also anticipated by Dobson et al., since Dobson et al.’s composition also reduces wrinkles and contains adenosine (see claim 1 and claims 2-10). It should be noted that the application of the composition to persons having expression lines (and/or to persons having expression lines) does not require that the application be applied to area of expression lines on said person, especially since “the claim also reads on a method for relaxing the skin or relaxing facial features and does not require a softening of lines. Furthermore, the term “expression lines” includes wrinkles.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lapinet et al. (US 3,978,213).

In claim 1, applicant claims “A method for softening lines and/or relaxing the skin and/or relaxing facial features, comprising topically applying a composition to one or more zones of the face or forehead marked with expression lines and/or to persons having expression lines, the composition comprising at least one compound selected from the group consisting of adenosine and adenosine analogues, in a physiologically acceptable medium.” Lapinet et al. disclose

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applicant's method of softening and enhancing the natural elasticity of the skin comprising applying topically to human skin a composition comprising an adenosine analogue, cyclic 3',5'-adenosine monophosphate (see claims 1-2 and col. 2, line 48- col. 4, line 7). It should be noted that the application of the composition to persons having expression lines (and/or to persons having expression lines) does not require that the application be applied to area of expression lines on said person, especially since "the claim also reads on a method for relaxing the skin or relaxing facial features and does not require a softening of lines. Furthermore, the term "expression lines" includes wrinkles. It should be noted that the examiner considers the softening of skin also includes a softening of lines. Claim 2, which is drawn to the method according to claim 1 wherein said composition comprises an adenosine analogue, is also encompassed by this rejection, since Dobson et al.'s composition also comprises the adenosine analogue, cyclic 3',5'-adenosine monophosphate (see claims 1-2 and col. 2, line 48- col. 4, line 7). It should be noted that the application of the composition to persons having expression lines (and/or to persons having expression lines) does not require that the application be applied to area of expression lines on said person, especially since "the claim also reads on a method for relaxing the skin or relaxing facial features and does not require a softening of lines. Furthermore, the term "expression lines" includes wrinkles. It should be noted that the examiner considers the softening of skin also includes a softening of lines.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

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in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dobson et al. (US 6,423,327 B1).

In claim 1, applicant claims "A method for softening lines and/or relaxing the skin and/or relaxing facial features, comprising topically applying a composition to one or more zones of the face or forehead marked with expression lines and/or to persons having expression lines, the composition comprising at least one compound selected from the group consisting of adenosine and adenosine analogues, in a physiologically acceptable medium." Claim 3 is drawn to the method according to claim 1, wherein said composition comprises at least one adenosine analogue including 2'-deoxyadenosine 2', 3'-isopropylidene adenosine; toyocamycin, 1-methyladenosine Dependent claims 4-6 and 9 are drawn to a method wherein the composition comprises specific % by weight of adenosine and/or adenosine analogue. Dependent claims 10-20 are drawn to a method wherein the composition has a specific relaxing effect, the use of specific adenosine analogues, specific % by weight of adenosine and/or adenosine analogue and the application of the composition on specific locations on the face.

Dobson et al. disclose a method for enhancing the condition of skin in a mammal by reducing wrinkles, roughness, dryness, or laxity of the skin, comprising topically applying to the skin a composition comprising adenosine (see claim 1 and claims 2-10). Dobson et al. disclose that adenosine and suitable adenosine analogues are suitable for use in enhancing skin condition (see col. 3, lines 35-64). Furthermore, Dobson et al. disclose that adenosine analogues such as adenosine agonists, adenosine receptor agonists, and compounds that increase intracellular or extracellular adenosine levels are suitable for use in the invention (see col. 3, lines 35-64).

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Examples of some adenosine analogues disclosed by Dobson et al. as useful in the method include 2'-deoxyadenosine 2', 3'-isopropylidene adenosine; toyocamycin, 1-methyladenosine (see col. 3, lines 40-64). It should be noted that the examiner considers the reducing of wrinkles, the softening of lines and the relaxing of the skin or facial features. Furthermore, the examiner considers the relaxing effect on contractile fibroblast (as recites in claim 10), an effect or means by which said wrinkles or roughness are being reduced. It should be noted that the application of the composition to persons having expression lines (and/or to persons having expression lines) does not require that the application be applied to area of expression lines on said person, especially since "the claim also reads on a method for relaxing the skin or relaxing facial features and does not require a softening of lines. Furthermore, the term "expression lines" includes wrinkles.

The difference between applicant's claimed method and the method of Dobson et al. is that Dobson et al. do not disclose the specific % by weight of adenosine and/or adenosine analogue nor the application of the composition on specific locations on the face or skin. However, the use of specific % by weight of adenosine and/or adenosine analogue or the application of the composition on specific locations on the face or skin, depends on factors like the severity of the skin or facial condition (such as wrinkles), the location of the condition and the kind of subject or mammal being treated.

It would have been obvious to one having ordinary skill in the art, at the time the claimed invention was made to have used the method of Dobson et al. to treat wrinkles or enhance skin or relax facial features with a composition comprising adenosine or adenosine analogue, and to use different % by weight of adenosine or adenosine analogue at the required location, based on

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factors like the severity of the skin or facial condition (such as wrinkles), and the kind of subject or mammal being treated.

One having ordinary skill in the art would have been motivated to use the method of Dobson et al. to treat wrinkles or enhance skin or relax facial features with a composition comprising adenosine or adenosine analogue, and to use different % by weight of adenosine or adenosine analogue at the required location, based on factors like the severity of the skin or facial condition (such as wrinkles), and the kind of subject or mammal being treated.

Response to Amendment

Applicant's arguments with respect to claim 1-22 have been considered but are not found convincing.

The applicant argues that Dobson describes the use of adenosine for the enhancement of skin conditions such as those resulting from exposure to sun (see col. 2, lines 43-48). However, Dobson discloses the use of adenosine for the enhancement of skin conditions in a mammal by reducing wrinkles, roughness, dryness, or laxity of the skin, comprising topically applying to the skin a composition comprising adenosine (see claim 1 and claims 2-10). It should be noted that Dobson like the applicant, also claims the reducing (decreasing) of wrinkles due to the application of the same active ingredient (adenosine) (see claims 21 and 22 of applicant). The applicant argues that Dobson does not describe the treatment of expression lines nor the relaxing effect on contractile fibroblasts as was discovered by the inventors of the present application. However, Dobson discloses the use of adenosine for the enhancement of skin conditions in a mammal by reducing wrinkles, roughness, dryness, or laxity of the skin, comprising topically applying to the skin a composition comprising adenosine. This implies that Dobson's method

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also treats expression lines since the term “expression lines” includes wrinkles. Furthermore, Dobson administers the same composition as applicant to treat (enhance) the skin (which includes expression lines) of the same patient and consequently Dobson’s composition should also have the same effect on the expression lines as applicant’s composition. Also, although Dobson’s is silent about the relaxing effect of his composition on contractile fibroblasts, Dobson composition (which is the same as applicant’s) should have the same relaxing effect on contractile fibroblasts as applicant’s composition. The applicant argues that Dobson does not describe nor provide any reasonable suggestion for applying a composition to certain zones marked with expression lines and/or persons having expression lines as claimed herein. However, Dobson’s method also treats expression lines since the term “expression lines” includes wrinkles and Dobson’s method as includes the treatment of wrinkles. Furthermore, Dobson administers the same composition as applicant to treat (enhance) the skin (which includes expression lines) of the same patient and consequently Dobson’s composition should also have the same effect on the expression lines as applicant’s composition. The applicant argues that Dobson does not describe or reasonably suggest the specific intent of softening lines and/or relaxing skin and/or facial features as claimed. However, Dobson discloses reducing wrinkles, roughness or laxity of the skin, which also includes relaxing of the skin, softening of lines of the skin or face.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Henry whose telephone number is 571-272-0652. The examiner can normally be reached on 8:30 am to 5:00 pm; Mon-Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1235.

MCH

November 3, 2005.


SAMUEL BARTS
PRIMARY EXAMINER
GROUP 1200